

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF:

**APPLICATION FOR CERTIFICATION FOR THE
SAN FRANCISCO ELECTRIC RELIABILITY
PROJECT**

DOCKET No. 04-AFC-01

RULING RE APPLICANT'S MOTION ON REPLY BRIEF

I. BACKGROUND

Pursuant to Committee directive, intervenor Sarvey filed his Reply Brief on July 10, 2006, followed by a "Reply to Staff's Late Filing" on July 21, 2006. Applicant, on August 2, 2006, then submitted its "Motion of the City and County of San Francisco to Have Portions of Intervenor Sarvey's Reply Brief and 'Reply to Staff's Late Filing' treated as Public Comment." (Applicant's Motion.)

Sarvey replied to Applicant's Motion on August 16, 2006 ("Reply to Applicant's Motion to Have Portions of Intervenor Sarvey's Brief Treated as Public Comment") and intervenor Californians for Renewable Energy (CARE) objected to Applicant's Motion on August 17, 2006 ("Objection and Reply to Applicant's Motion to Have Portions of Intervenor Sarvey's Brief Treated as Public Comment").

Finally, on August 28, 2006, Applicant submitted a "Reply of the City and County of San Francisco to Intervenor Sarvey's Reply."

II. DISCUSSION

Applicant objects to portions of intervenor Sarvey's Reply Brief on the grounds that the Reply Brief relies on materials that are not a portion of the evidentiary record in this case. In his response, Mr. Sarvey states that Applicant has

essentially attempted to rebut portions of his Reply Brief and “disguised this rebuttal as a motion.” (Sarvey “Reply to Applicant’s Motion”, p. 2.) Applicant’s latest filing on this matter repeats its initial objection, as well as objects to what it perceives as the intervenor’s attempt to extend the evidentiary process by urging that we take official notice of various documents.

We issued the Presiding Member’s Proposed Decision (PMPD) on August 25, 2006, and from our point of view, Applicant’s motion is moot. In the PMPD, we specified upon which portions of the evidentiary record we relied and noted, as appropriate, arguments advanced by the various parties in their respective briefs. To our reckoning we utilized, as the underpinnings of our findings, only those evidentiary bases which were subjected to scrutiny during the hearings, as required by our regulations. Thus, to quote Mr. Sarvey, we believe the Committee has shown it “...is fully capable of identifying and classifying the evidentiary record...”. (Sarvey “Reply to Applicant’s Motion”, p. 2.)

III. RULING

Applicant’s Motion is moot and therefore is DENIED.

Dated September 8, 2006, at Sacramento, California.

JAMES D. BOYD
Vice Chair and Presiding Member
San Francisco Electric Reliability Project AFC Committee

JOHN L. GEESMAN
Commissioner and Associate Member
San Francisco Electric Reliability Project AFC Committee